

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JAIME DEL CASTILLO, APPELLANT.

G.R. No. 180925. August 20, 2008

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TINGA, J.:

This Court is called upon to review the Decision[1] rendered by the Court of Appeals on 5 July 2007, which affirmed with modification the Decision[2] of the Regional Trial Court of Calabanga, Camarines Sur, Branch 63 dated 14 December 2004 finding Jaime del Castillo guilty of rape.

In an Information dated 26 September 2002, appellant was charged with rape, thus:

That at about 11:00 p.m. of June 29, 2002 at Brgy. Sabang, Calabanga, Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force and intimidation did then and there, wil[1]fully, unlawfully and feloniously has [sic] carnal knowledge of victim AAA,[3] a 16 year old minor against her will, which act of the accused debases, degrades and demeans the intrinsic worth and dignity of the minor as a human being and prejudicial to her development, to her damage.

ACTS CONTRARY TO LAW.[4]

Upon arraignment, appellant pleaded not guilty to the charge. Trial on the merits ensued.

The evidence for the prosecution is as follows:

Sixteen-year old AAA was living with her parents and siblings in a house at Sabang, Calabanga, Camarines Sur. On 29 June 2002, she was alone in their house as her parents and siblings had gone to Vinzons, Camarines Norte. At around 11:00 o'clock that night, she was already in bed, half-asleep, when suddenly, turning on her side, she felt someone poke her neck with the tip of a spoon. She was able to identify the man holding the spoon as appellant through the light coming from the neighbor's house. She tried to fight back but appellant punched her on the face. Appellant then removed AAA's dress and pulled down her gartered shorts. AAA fought back again but this time, appellant punched her on the abdomen and removed her panties. Holding AAA's neck tightly, appellant then spread AAA's legs and inserted his penis into her vagina.

After committing the dastardly act, appellant told AAA that he would take her to Manila to make her happy. When AAA hinted her refusal, appellant slapped her on the left cheek. Appellant then started to put on his clothes and ordered AAA to turn her back, threatening to stab AAA if she faced him. After appellant had ran outside and away from the house, AAA proceeded to the house of a certain Ate Sharon.[5]

On 30 June 2002, AAA was fetched by her aunt, BBB,[6] to whom she related her ordeal. After relating the whole incident to BBB, they went to the barangay captain to report the rape but were told to go directly to the police station of Calabanga. After narrating the incident to the police, they went to the hospital where AAA was examined by Dr. Ma. Agnes Ali.[7] The results of the examination are contained in the medico-legal report which states:

PPE:

Hematoma on the right cheek.
Abrasions on the neck, left side

External Genitalia:

Well distributed pubic hair
Hematoma noted on the perineal area
Fresh lacerations, hymenal at 4, 8, 10 and 12 o'clock positions
Introitus admits 1 finger with ease
(+) vaginal bleeding (4th day of menses)[8]

Appellant set up the defense of alibi. He claimed that at 11:00 p.m. on 29 June 2002, he was at the wedding celebration of Edgar (Egay) Balderama's daughter and that he was already there as early as 10:00 a.m. as he assisted in the wedding preparations and in serving food to the guests. The wedding party allegedly ended at about 7:00 p.m. but he was supposedly invited by Egay to a drinking spree. He recounted that he left Egay's house shortly after 12:00 a.m. and arrived at his aunt's house twenty minutes later. According to him, he went to sleep after having his dinner and found himself already handcuffed when he woke in the morning.[9]

Egay corroborated the alibi that on 29 June 2002, appellant was in attendance at the wedding celebration of his daughter from 10:00 a.m. to 12:00 a.m.[10] Ronald Vargas (Vargas), a friend of appellant's, also testified that both appellant and himself rendered assistance to Egay's family during the wedding celebrations on 29 June 2002, and that they were also together at the drinking session that night which lasted until 12:00 a.m.[11]

Arnel Rosco (Arnel) was presented to rebut the testimonies of Egay and Vargas. He stated that on 29 June 2002, he was on a boat docked at the side of the bridge when he saw appellant pass by in front of him. Arnel estimated the time to be 11:00 p.m. because after the said encounter, he immediately went to the house of his sibling and checked the time on the wall clock.[12]

On 14 December 2004, the trial court rendered judgment finding appellant guilty beyond reasonable doubt of rape. The dispositive portion reads:

WHEREFORE, in view of the foregoing, the prosecution having proven the guilt of the accused beyond reasonable doubt, accused Jaime del Castillo is found guilty of the crime of rape as charged. He is hereby sentenced to suffer the penalty of reclusion perpetua. Accused is likewise ordered to pay the private complainant [AAA] the amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages and to pay the cost. He is likewise meted the accessory penalties as provided for under Article 41 of the Revised Penal Code.

Considering that the accused has undergone preventive imprisonment, he shall be credited in the service of his sentence with the time he has undergone preventive imprisonment subject to the conditions provided for in Article 29 of the Revised Penal Code.

SO ORDERED.[13]

The trial court found the testimony of the victim to be credible, and disregarded appellant's defenses of alibi and denial.

The trial court pointed out that the veracity of the rape accusation was manifested by the following facts: (1) the spontaneous identification of appellant as the one who raped her; (2) the immediate revelation of her predicament to her aunt the following day; (3) the immediate reporting of the incident to the barangay captain; (4) the immediate reporting thereof to the police; (5) the immediate submission to a medical examination; and (6) the corroboration between finding of the medico-legal expert and AAA's testimony.[14]

The case was directly elevated to this Court for automatic review. However, pursuant to our decision in *People v. Mateo*,^[15] this case was transferred to the Court of Appeals which affirmed with modification the decision of the trial court, thus:

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed Decision dated December 14, 2004 of the RTC of Calabanga, Camarines Sur, Branch 63, in Criminal Case No. RTC-02-744 is AFFIRMED with MODIFICATION further ordering accused-appellant to pay complainant exemplary damages in the amount of P25,000.00 in addition to the award of P50,000.00 in civil indemnity and P50,000.00 moral damages.^[16]

Appellant filed a notice of appeal on 18 July 2007.^[17]

In the Resolution of 12 March 2008, we accepted the appeal and ordered the respective parties to file their supplemental briefs.^[18] Both appellant and the Office of the Solicitor General (OSG) manifested that they would adopt their briefs previously filed before the appellate court.^[19] Thereafter, the case was deemed submitted for decision.

Appellant maintains his innocence and casts doubt on AAA's credibility because of the alleged inconsistencies in her testimony.

In a prosecution for rape, the victim's credibility becomes the single most important issue. For, when a woman says she was raped, she says in effect all that is necessary to show that rape was committed; thus, if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.^[20] In this case, the test of credibility of the rape victim was more than sufficiently met.

AAA's account of the rape was spontaneous, categorical and detailed.^[21] As observed by the trial court, she testified in a straightforward manner on the rape incident from its start until its consummation.^[22]

Moreover, the trial court noted that the inconsistencies adverted to by appellant were "not that substantial which would lead to discredit her testimony."^[23] AAA's apparent conflicting testimonies with respect to the order of injuries inflicted on her, as well as the time she claimed she told a friend about her plight are not material to the identification of appellant as the perpetrator. The failure of a witness to recall each and every detail of an occurrence may even serve to strengthen rather than weaken his or her credibility because it erases any suspicion of a coached or rehearsed testimony.^[24]

Appellant argues that it was improbable for AAA to identify the perpetrator because the house was without electricity and that it was dark. We are not persuaded. As correctly observed by the Office of the Solicitor General (OSG), AAA testified that appellant's face was illuminated by the light coming from the neighbor's house. Besides, AAA was familiar with appellant as the latter had been known to her for quite some time.^[25]

Furthermore, while it is true that AAA was lying down and thus could not have seen the face of her assailant at the first instance, she nevertheless was able to identify him when the latter mounted her.^[26] Appellant's contention that AAA could not have seen the face of her assailant as she admitted that she never glanced at him after the assault was consummated, should likewise fail because at the time appellant supposedly ordered AAA to turn her back on him, AAA had already seen and identified his face and the rape had already been consummated.

Appellant also questions the failure of AAA to resist the alleged advances considering that the latter is taller and bigger than him.^[27] Against this question, the OSG argues that appellant, a male, is more powerful than AAA in terms of physical strength despite the fact that they are of the same height.^[28] It bears stressing that the absence of struggle on the part of the rape victim does not necessarily negate the commission of the offense. Failure to shout for help or fight back cannot be equated to voluntary submission to the criminal intent of the accused. It

should be remembered that AAA was first threatened by appellant with a spoon which the latter poked at her neck. Fear, in lieu of force or violence, is subjective. Addressed to the mind of the victim of rape, its presence cannot be tested by any hard-and-fast rule but must instead be viewed in the light of the perception and judgment of the victim at the time of the commission of the crime. In addition, as the Court has repeatedly observed, people act differently to a given stimulus or type of situation, and there is no standard form of behavioral response that can be expected from those who are confronted with a strange, startling or frightening experience.[29]

Appellant claims that his non-flight is an indication of his innocence. We do not agree. Non-flight is not proof of innocence. The culprit of a crime may choose to remain within the area of the crime scene because he lives there and flight may only raise suspicions against him. No case law exists to support appellant's claim that his non-flight precludes the possibility that he is guilty of the crime. To accept the defense offered by appellant would allow people to commit a crime and avoid liability by simply choosing to stay in the crime scene afterwards.[30]

Appellant's alibi was properly rejected by the lower courts. For alibi to prosper, appellant must not only prove that he was somewhere else when the crime was committed. He must also convincingly demonstrate the physical impossibility of his presence at the locus criminis at the time of the incident.[31] In the instant case, appellant failed to show that it would have been physically impossible for him to be at the scene of the crime on the occasion of the rape.

All told, there is no cogent reason to deviate from the jurisprudential precept that findings of the trial court on the credibility of witnesses and their testimonies are accorded with great respect.

As a final point, the Court observes that the appellate court erred in awarding exemplary damages. There is no showing that any aggravating or qualifying circumstance attended the commission of the rape; hence, the award of exemplary damages has no factual and legal basis.[32]

WHEREFORE, in view of the foregoing, the Decision of the Court of Appeals finding appellant Jaime del Castillo guilty of rape and sentencing him to suffer the penalty of reclusion perpetua is **AFFIRMED**, with the **MODIFICATION** that appellant is ordered to pay AAA (to be identified through the Information) P50,000.00 as civil indemnity and, in addition, P50,000.00 as moral damages. The award of P25,000.00 as exemplary damages is **DELETED**.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo, pp. 2-11; penned by Associate Justice Estela M. Perlas-Bernabe and concurred in by Associate Justices Regalado E. Maambong and Lucas P. Bersamin.

[2] CA rollo, pp. 17-39.

[3] Pursuant to Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victim, together with that of her immediate family members, is withheld and fictitious initials instead are used to represent her, both to protect her privacy. *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006, 502 SCRA 419.

[4] Records, p. 1.

[5] TSN, 8 April 2003, pp. 4-11.

[6] Name of aunt is withheld. *Supra* note 2.

- [7]TSN, 4 April 2003, pp. 3-4.
- [8] Records, p. 5.
- [9] TSN, 11 February 2004, pp. 3-6.
- [10] TSN, 8 June 2004, pp. 4-5.
- [11]TSN, 9 December 2003, pp. 4-5.
- [12] TSN, 23 June 2004, pp. 3-5.
- [13] CA rollo, p. 39.
- [14] Id. at 33.
- [15] G.R. Nos. 147678-87, 7 July 2004, 464 SCRA 640.
- [16] Rollo, p. 11.
- [17] Id. at 12.
- [18] Id. at 16-17.
- [19]Id. at 20-23; 28-30.
- [20] People v. Capareda, G.R. No. 128363, 27 May 2004, 429 SCRA 301, 323; People v. Galido, G.R. Nos. 148689-92, 30 March 2004, 426 SCRA 502, 516.
- [21]TSN, 8 April 2003, pp. 4-10.
- [22] CA rollo, p. 78.
- [23]Id.
- [24] Rivera v. People, G.R. No. 138553, 30 June 2005, 462 SCRA 350, 359-360.
- [25] TSN, 8 April 2003, p. 6.
- [26]Id. at 5.
- [27] CA rollo, p. 55.
- [28]Id. at 99.
- [29] People v. Lustre, 386 Phil. 390, 397-398 (2000).
- [30]People v. Sumalinog, Jr., 466 Phil. 637, 652 (2004).
- [31] People v. Carpio, G.R. No. 170840, 29 November 2006, 508 SCRA 604, 627.
- [32]People v. Layoso, 443 Phil. 827, 840 (2003).

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